

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:NER:OHI:CLE:TL-N-7735-98
DGDriscoll

date: MAR - 1 1999

to: Chief, Examination Division, Ohio District
Att: Dwight Davis, Chief, Examination Branch 2 E:EB2

from: District Counsel, Ohio District, Cleveland

subject: Consents for CEP Taxpayers

ISSUE

When an CEP audit team requests a CEP taxpayer to extend its statute of limitation, should the extension specifically include generic language extending the statute of limitations for any TEFRA partnership interest the CEP taxpayer may have?

FACTS

On a regular basis, CEP audit teams request CEP taxpayers to extend their statute of limitations for assessment purposes. CEP audit teams often make such requests to extend the statute of limitations during the initial phase of the audit. At the time the statute extension is requested, the audit team may not be aware of any TEFRA partnership interests the taxpayer may have. Furthermore, Form 872, the standard statute extension form, does not contain any specific reference to TEFRA partnership interests.

CONCLUSION AND ANALYSIS

To ensure that the statute of limitations remains open for any potential TEFRA partnership adjustments, a CEP taxpayer statute extension should specifically include generic language extending the statute of limitations for any TEFRA partnership interest the CEP taxpayer may have.

Section 6501 sets forth the general statute of limitations on assessment and generally provides that a tax may be assessed within 3 years after the return was filed. Section 6501(c)(4) further provides that the period for making an assessment may be extended by agreement between the Secretary and the taxpayer.

However regarding the statute of limitations for TEFRA adjustments, section 6229(b)(3) specifically states:

Coordination with section 6501(c)(4). --Any agreement under section 6501(c)(4) shall apply with respect to the period described in subsection (a) only if the agreement expressly provides that such agreement applies to tax attributable to partnership items.

Given the language of section 6229(b)(3) and the possibility that a court would interpret the language of section 6229(b)(3) in a limited fashion, Chief Counsel recommends that any statute extension request intended to extend a TEFRA partnership statute of limitations should include a specific extension of the TEFRA partnership statute of limitations.

Attached is an updated version of the suggested language previously provided by Chief Counsel to use to extend a TEFRA partnership statute of limitations.

For a more detailed discussion of this issue, please refer to the appropriate IRM section.

If you have any further questions in this matter, please do not hesitate to contact the undersigned at (216)522-3380.

RICHARD E. TROGOLO
District Counsel

By: **DENNIS G. DRISCOLL**
DENNIS G. DRISCOLL
Associate District Counsel

Enclosure:
As stated.

To be inserted into a corporate 872:

Without otherwise limiting the applicability of this agreement, this agreement also extends the period of limitations for assessing any tax (including additions to tax and interest) attributable to any partnership items (see section 6231(a)(3)), affected items (see section 6231(a)(5)), computational adjustments (see section 6231(a)(6)), and partnership items converted to nonpartnership items (see section 6231(b)). This agreement extends the period for filing a petition for adjustment under section 6228(b) but only if a timely request for administrative adjustment is filed under section 6227. For partnership items which have converted to nonpartnership items, this agreement extends the period for filing a suit for refund or credit under section 6532, but only if a timely claim for refund is filed for such items. In accordance with paragraph (1) above, an assessment attributable to a partnership shall not terminate this agreement for other partnerships or for items not attributable to a partnership. Similarly, an assessment not attributable to a partnership shall not terminate this agreement for items attributable to a partnership.

If a Form 872-A is used, the following additional language must be used:

The issuance of a notice of deficiency will not terminate this agreement under paragraphs (1) and/or (2) for the items described by this paragraph.